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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,182	08/02/2001	Gregory Maurice Plow	STL920000035US1	7553
55436 7590 07/11/2007 ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92019			EXAMINER MYHRE, JAMES W	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 07/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/922,182	Applicant(s) FLOW ET AL.	
	Examiner James W. Myhre	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Remand to the Examiner from the Board of Patent Appeals and Interferences dated February 10, 2006. Claims 1-4, 6-11, and 13-19 are currently pending and have been considered below.


2. In view of the Reply Brief filed on July 1, 2005, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


Eric Stamber
Supervisory Patent Examiner

EXAMINER'S NOTE

3. In Claims 7-11 and 13-19 the Applicant appears to be attempting to invoke 35 U.S.C. 112, 6th paragraph through the use of means-plus-function language, e.g. "logic mean for enabling a user to select a saved advertisement..." (Claim 7). The test of successful invocation of this paragraph comprises three prongs – (1) proper means-plus-function language in the claim; (2) no structural limitation in the claim; and (3) explicit structural limitations recited within the specification. While the language in these claims successfully passes the first prong of the three-prong test, it does not pass either of the other two prongs of the test. The claims themselves describe "logic means" as being part of a computer program, thus eliminating any kind of physical structure. Likewise, the specification describes the means for performing these functions as part of a computer program. Thus, no physical structure has been identified to which these functions could be attributed. Therefore, 35 U.S.C. 112, 6th paragraph has not been successfully invoked and the Examiner will consider the limitations to be any means by which the functions can be accomplished, e.g. computer program modules.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3622

5. Claims 1-4, 6-11, and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by LeMole et al(6,009,410).

Claims 1, 7, 8, 14, and 18: LeMole discloses a system, computer readable medium, and method for storing Internet advertisements at a user computer, comprising:

- a. receiving automatically (pushed) a plurality of Internet advertisement at the user computer (column 6, lines 20-45);
- b. saving (storing) the plurality of advertisements on the user computer (column 6, lines 20-45);
- c. accessing the saved plurality of advertisements by the user on the display of the user computer (column 5, lines 23-27;
- d. filtering previously displayed advertisements to determine eligible advertisements (column 5, lines 16-22);
- e. selecting one of the advertisement by the user (column 6, lines 63-66); and
- f. accessing the advertiser's website by clicking on a link within the advertisement (column 4, lines 29-35 and column 7, lines 12-35).

Claims 2, 9, and 15: LeMole discloses a system, computer readable medium, and method as in Claims 1, 7, and 14 above, and further discloses the advertisement including an HTML tag (column 4, lines 29-35 and column 7, lines 12-35).

Claims 3, 10, and 16: LeMole discloses a system, computer readable medium, and method as in Claims 1, 8, and 14 above, and further discloses displaying the advertisement in response to toggling (clicking on) a button (Figure 2 and column 7, lines 12-35).

Claims 4, 11, and 17: LeMole discloses a system, computer readable medium, and method as in Claims 3, 10, and 16 above, and further discloses allowing the user to scroll through the advertisements (Figure 2 – top right corner of screen depicts the scroll bar).

Claims 6, 13, and 19: LeMole discloses a system, computer readable medium, and method as in Claims 1, 8, and 14 above, and further discloses displaying and using Previous (Back) and Next (Forward) buttons to navigate through the saved advertisements (Figure 2 and column 6, line 63 – column 7, line 35).

Response to Arguments

6. Applicant's arguments with respect to claims 1-4, 6-11, and 13-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Logan et al (5,721,827) discloses a system, computer readable medium, and method for distributing personalized advertisements which downloads a plurality of advertisements to the user computer and allows the user to selectively play one or more of the advertisements.


b. Dedrick (5,724,521) discloses a system, computer readable medium, and method for automatically providing a plurality advertisements to users which are stored as a Yellow Pages for perusal by the user.

c. Payne et al(5,909,492) discloses a system, computer readable medium, and method for transmitting a plurality of product information (i.e. advertisements) to a user, allowing the user to browse the advertisements, select one or more advertisement, and view additional information about the product by clicking on a link within the advertisement and receiving the additional information from the advertiser's website.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JWM
June 26, 2007


James W. Myhre
Primary Patent Examiner